

FILED 21 DEC '18 12:01 USDC-ORE

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America

v.

XIAO DONG QIN

Case No.

6:18-mj-260-MK

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 1, 2017 thru May 31, 2018 in the county of Lane in theDistrict of Oregon, the defendant(s) violated:*Code Section*

18 U.S.C. § 371

18 U.S.C. § 554

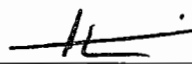
Offense Description

Conspiracy

Smuggling Wildlife from the United States

This criminal complaint is based on these facts:

See attached affidavit of USFWS Special Agent Paul Montuori which is incorporated herein.

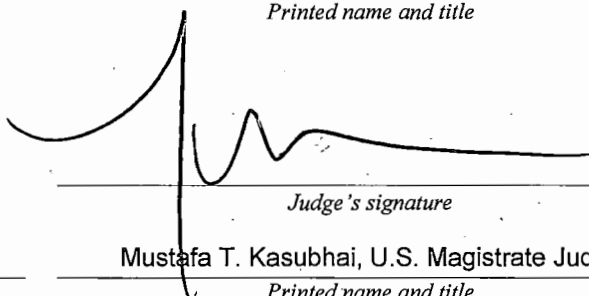
☒ Continued on the attached sheet.
Complainant's signature

Paul Montuori, Special Agent, USFWS

Printed name and title

Sworn to before me and signed in my presence.

Date:

12/21/18
Judge's signature

City and state:

Mustafa T. Kasubhai, U.S. Magistrate Judge

Printed name and title

DISTRICT OF OREGON, ss: AFFIDAVIT OF PAUL MONTUORI

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Paul Montuori, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent (SA) with the United States Fish and Wildlife Service (USFWS), Department of the Interior, and have been so employed since October 2008. I am currently assigned to the field office in Wilsonville, Oregon. Prior to working as a Special Agent with USFWS, I was employed as an SA with the United States Department of State for nine years. During my employment with the USFWS, I have conducted and participated in investigations of violations of wildlife laws and have undergone training in the identification and investigation of wildlife crimes.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for "Edison" XIAO DONG QIN ("QIN") for smuggling wildlife from the United States in violation of 18 U.S.C. § 371, Conspiracy, and 18 U.S.C. § 554, Smuggling goods from the United States. As set forth below, there is probable cause to believe, and I do believe, that QIN conspired to smuggle wildlife from the United States.

3. This affidavit is intended to show only that there is sufficient probable cause for the requested complaint and arrest warrant and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based on my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, a review of records related to this investigation, communications with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience.

Applicable Law

4. Title 18 U.S.C. § 371 provides that if two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

5. Title 18 U.S.C. § 554 provides that it is unlawful to fraudulently or knowingly export or send from the United States or attempt to export or send from the United States any merchandise, article, or object contrary to any law or regulation of the United States, or to receive, conceal, buy, sell, or in a manner facilitate the transportation, concealment, or sale of such merchandise prior to exportation, knowing the same to be intended for exportation contrary to law or regulation of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

6. The Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), 16 U.S.C. § 1538(c)(1) provides that it is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention. CITES is an international treaty that regulates trade in wildlife and plants and contains three appendices. Appendix I lists species that are the most endangered among CITES-listed animals and plants and prohibits international trade with the exception of non-commercial purposes, such as scientific research. Appendix II lists species that may become endangered unless trade is closely controlled. Appendix III lists species at the request of a country that already regulates trade in the species and needs the cooperation of other countries to

prevent unsustainable or illegal exploitation. A CITES permit must be obtained to export any species listed in a CITES appendix. The Florida box turtles, North American wood turtles, Blanding's turtles, spotted turtles, diamondback terrapins, and eastern box turtles referred to in this affidavit are protected under CITES Appendix II. Yellow-blotched turtles are protected by Appendix III.

7. The Endangered Species Act, Title 16 U.S. Code § 1538, (a)(1)(A)(E)(F)(G) provides that it is unlawful for any person subject to the jurisdiction of the United States to export any threatened species of wildlife from the United States; deliver, receive, carry, transport, or ship in interstate or foreign commerce; by any means whatsoever and in the course of a commercial activity, any such species; sell or offer for sale in interstate or foreign commerce any such species. Yellow-blotched map turtles are endemic to Mississippi and listed as threatened on the Endangered Species Act.

8. The Export Declaration Requirements provision pursuant to 50 C.F.R. § 14.63, requires that prior to the export of any wildlife, exporters or their agents must file a completed Declaration for Importation or Exportation of Fish and Wildlife (Form 3-177) with the USFWS.

9. The Lacey Act, Title 16 U.S.C § 3372 (a)(2)(A), provides that it is unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State.

10. Ohio license to raise or keep and animals, O.R.C. 1533.71 (A), provides any person desiring to engage in the business of raising and selling reptiles in a wholly enclosed preserve of which the person is the owner or lessee, or to have reptiles in captivity, shall submit an application to the division of wildlife for a license to do so.

11. Florida General Provisions for Taking, Possession and Sale of Reptiles, 68A-25.002, provides that no person shall possess more than two box turtles or two diamond-backed terrapins; no person shall transport more than one turtle; no person shall buy, sell, or possess for sale turtles, their eggs or parts thereof, that have been taken from the wild.

12. Oregon Prohibited Species, 635-056-0050, provides the live wildlife listed below may not be imported, possessed, sold, purchased, exchanged or transported in the state: pond turtles to include spotted turtles and North American wood turtles, Blanding's turtles, and map turtles to include yellow-blotched map turtles.

Statement of Probable Cause

13. On or about May 18, 2017, May 29, 2017, September 17, 2017, and January 16, 2018, an unindicted co-conspirator ("UI") posted advertisements on an online reptile classified website and stated that he wanted to purchase a large quantity of Florida box turtles, North American wood turtles, spotted turtles, and eastern box turtles. The UI posted an email address on all four advertisements and stated he was living in Eugene, Oregon.

Transactions and Interview of UI

14. On January 25, 2018, I obtained a search warrant for the UI's email account. I obtained grand jury subpoenas related to the UI's PayPal account and banking information.

15. On November 27, 2018, 2018, I arrested the UI based on a criminal complaint in the District of Oregon. I interviewed the UI and he told me that he met "Edison" QIN in New York in May 2017. QIN agreed to pay the UI for the total cost of the live turtles and a 10% buyer's fee. The UI said QIN paid him for the turtles via WeChat (a Chinese multi-function

social media mobile application). The UI told me that he communicated with QIN through WeChat. The UI said QIN was from the Shanghai, China area.

Identification of QIN

16. On November 27, 2018, I obtained written consent to search the UI's email account and his phone. On November 27, 2018, I found an August 25th through 28th, 2018 group text on the UI's phone that included a reptile dealer from Florida, "Eddison", and the UI. The reptile dealer told "Eddison" he was shipping \$57,000-\$67,000 worth of turtles to the UI in Los Angeles. The reptile dealer said, "Hey Eddison, I am shipping all the turtles-the ones you left here and your order from me TODAY..." The phone number associated with "Eddison" was an international phone number ("PHONE NUMBER").

17. On November 27, 2018, I found another August 25, 2018 text message conversation between a different reptile dealer in Florida and the UI. According to the text conversation, the UI delivered \$45,000 cash to the Florida reptile dealer. The UI said, "Edison told me to bring 45000." I entered the reptile dealer's name in a USFWS database and found two live turtle (non-CITES species) exports (August 31, 2018 and October 11, 2018) to SHANGHAI SHOU LANG AGRICULTURAL DEVELOP ("COMPANY") in Shanghai, China.

18. I entered the COMPANY into a USFWS database and I found one additional live turtle (non-CITES species) export from a different reptile dealer in Florida to the COMPANY on October 28, 2018. The airway bill included contact information for the COMPANY and included "QIN XIAO DONG" and the PHONE NUMBER. I did not locate any CITES permits related to QIN.

19. I entered the QIN XIAO DONG (“ACCOUNT”) in Facebook and found a male from Shanghai that publically listed a date of birth. I viewed the publically available ACCOUNT and found 21 photos of various species of live turtles posted on March 5, 2015. I know Asian cultures utilize family names before given names.

20. I provided the name XIAO DONG QIN with the date of birth found on the ACCOUNT to the Customs and Border Protection (CBP) and they found QIN has entered the United States approximately thirty four times since 2013. I analyzed QIN’s travel and confirmed he was in New York in May of 2017 to meet with the UI. QIN was also in the United States from August 14th through the 24th, 2018. On August 25, QIN told the Florida reptile dealer in paragraph 16, “...tomorrow I’m arrive in Shanghai...”

21. A USFWS SA conducted a CBP database check and found on February 6, 2015, the US Consulate in Shanghai, China issued QIN a non-immigrant B1/B2 visitor visa.

22. On December 18, 2018, I received information about QIN from a USFWS SA. The SA met with a confidential source (“CS”) who said “Edison Qin Xiao Dong” purchased illegal reptiles from Mexico and uses the same ACCOUNT.

May and June 2017 shipments to Ohio

23. On May 23, 2017, the UI sent \$625 through PayPal to a reptile dealer in South Carolina, in exchange for six eastern box turtles. Initially the UI asked the dealer to send the turtles to Eugene, Oregon, but on or about May 23, 2017, the UI asked the dealer to send the turtles to a person (“INDIVIDUAL #1”) in Ohio. On or about May 23, 2017, the dealer said he could not ship them to Ohio without a permit. On or about May 23, 2017, the UI responded, “Sorry I’m on a business trip to Ohio. That is my friend address. When I finish my job I will take

them back to Oregon.” An email record showed the UI took a taxi within the Eugene, Oregon area on May 23, 2017.

24. On November 27, 2018, the UI told me he never travelled to Ohio. The UI said he was directed by QIN to tell the dealer that he was in Ohio so that the dealer would ship the turtles. On May 24, 2017, the dealer shipped the live turtles to INDIVIDUAL #1 for arrival on May 25, 2017.

25. On or about May 25, 2017, a person (“INDIVIDUAL #2”) sent two packages (“PACKAGE #1” and “PACKAGE #2”) from a return address (“ADDRESS #1”) in Ohio to Hong Kong. A USFWS investigation found INDIVIDUAL #1 and INDIVIDUAL #2 were married. Based on the same USFWS investigation, I found ADDRESS #1 in Ohio was the residence of INDIVIDUAL #2’s parents. PACKAGE #1 was delivered in Hong Kong on or about May 31, 2017. On May 26, 2017, USFWS Wildlife Inspector (WI) Amanda Dickson’s canine alerted WI Dickson to PACKAGE #2. PACKAGE #2 was declared as “Box (sample)” and valued at \$14.00. WI Dickson inspected the package and found ten live eastern box turtles wrapped in socks. The turtles had an estimated Chinese market value of \$20,000. A CITES permit was not completed for this shipment.

26. On June 15, 2017, the UI paid to ship another package (“PACKAGE #3”) to INDIVIDUAL #1 in Ohio from Eugene, Oregon. The UI utilized a third party reptile shipping company called Reptiles Express and PACKAGE #3 was delivered to INDIVIDUAL #1 on June 16, 2017.

27. On November 27, 2018, the UI told me that from May 30, 2017 through June 5, 2018, he purchased 30 eastern box turtles from a reptile dealer in North Carolina. The UI said he

shipped all of these live turtles in PACKAGE #3. The UI said QIN paid him for the eastern box turtles. The UI said QIN told him to ship PACKAGE #3 to INDIVIDUAL #1.

July 2017 shipment to Alabama

28. From June 22, 2017 through June 26, 2017, the UI sent a reptile dealer in New Jersey \$5,000 via PayPal.

29. On November 27, 2018, the UI told me he purchased twenty Florida box turtles from the New Jersey reptile dealer in June 2017.

30. On June 30, 2017, the UI left the United States. On July 3, 2017, the UI paid Reptiles Express to ship a package on July 5, 2017 to "Blake X" at an address in Alabama ("ADDRESS #3"). The UI specified his roommate was the shipper of the package. On or about July 4, 2017, the UI sent the shipping label to an email address associated with his roommate. The FedEx package was sent from Eugene, Oregon and delivered to Alabama on July 6, 2017. On July 10, 2018, SA Montuori conducted a record check and found Michael Blake BROWN lived at ADDRESS #3. SA Montuori found USFWS was investigating BROWN for smuggling live turtles to Hong Kong. USFWS seized live box turtles from international U.S. Postal Service ("USPS") mail parcels mailed by BROWN on or about the following dates: July 25, 2017, August 17, 2017, August 24, 2017, and November 27, 2017. The Southern District of Florida issued an arrest warrant for BROWN. On September 19, 2018, USFWS agents arrested BROWN in Alabama. USFWS agents interviewed BROWN and he admitted to sending live box turtles to Hong Kong in multiple USPS packages.

31. On November 27, 2018, the UI said QIN told him to ship ten Florida box turtles to BROWN's address. The UI said he asked his roommate to ship approximately ten live box turtles to BROWN. The UI said QIN paid him for the turtles sent to BROWN.

July 2017 transaction with USFWS

32. On July 19 and July 20, 2017, a USFWS SA (UC) acting in a covert capacity communicated with a reptile dealer living in China ("INDIVIDUAL #3"), using WeChat. INDIVIDUAL #3 is a reptile dealer living in China. INDIVIDUAL #3 asked the UC to receive ten Florida box turtles and then send them to Hong Kong in two separate packages. INDIVIDUAL #3 said his friend in Hong Kong would pay the UC \$120 per turtle as payment for receiving and sending the live turtles to Hong Kong. The UC agreed to the terms of the deal. INDIVIDUAL #3 suggested the UC receive the turtles at a friend or colleague's address in order to conceal the UC's involvement. In one message, INDIVIDUAL #3 wrote, "less people know you could send turtles, safer you are."

33. On July 20, 2017, the UC placed a phone call to INDIVIDUAL #3. INDIVIDUAL #3 stated that his friend in Hong Kong purchased the Florida box turtles. INDIVIDUAL #3 described the friend in Hong Kong as his "boss." INDIVIDUAL #3 explained that in the past he sold turtles to his friend in Hong Kong. INDIVIDUAL #3 said his friend does not speak English, which is why INDIVIDUAL #3 helped his friend obtain turtles from the United States. INDIVIDUAL #3 said the UC would receive the Florida box turtles the following day. INDIVIDUAL #3 said his friend would send the UC \$1,200 via PayPal as payment for shipping the Florida box turtles.

34. On or about July 20, 2017, INDIVIDUAL #3 sent the UC a text message, which included a link to the FedEx, tracking information for the Florida box turtles. On July 20, 2017, the UI paid Reptiles Express to ship a package on July 20, 2017 to the UC. The UI specified his roommate as the shipper of the package. Based on travel records, the UI was not in the United States at this time. On or about July 20, 2017, the UI sent the shipping label to an email address associated with his roommate.

35. On July 21, 2017, the UC received a FedEx box with a Eugene, Oregon return address associated with the UI and his roommate. The box contained ten live Florida box turtles stuffed into socks. The newspaper used as packing material was from an April 2017 edition of a New Jersey real estate magazine.

36. On or about July 21, 2017, INDIVIDUAL #3 sent the UC a text message and said he sent a payment to the UC for the shipping of the Florida box turtles. INDIVIDUAL #3 provided the UC with a shipping address in Hong Kong and told the UC to send five turtles. On July 21, 2017, INDIVIDUAL #3 sent \$1,192.79 via PayPal (\$1,248 minus a fee of \$55.21) to the UC. On July 21, 2017, the UC shipped five live Florida box turtles to Hong Kong and declared the turtles as glass vases.

37. On or about July 24, 2017, INDIVIDUAL #3 sent the UC a text message and provided the UC with a different Hong Kong address in order to send the remaining five Florida box turtles. On July 24, 2017, the UC shipped five live Florida box turtles to Hong Kong and declared the turtles as glass vases.

38. On November 27, 2018, the UI said he asked his roommate to send ten Florida box turtles to the UC. The UI said QIN provided him with the UC's address. The UI said QIN paid him for the live turtles sent to the UC.

October 2017 shipments from Alabama, South Carolina, Michigan and Kentucky

39. From September 21, 2017 through September 25, 2017, the UI purchased 80 Florida box turtles through PayPal from a reptile dealer in Alabama. On or about September 29, 2017, the live turtles were delivered to the UI in Eugene, Oregon.

40. From September 21, 2017 through October 2, 2017, the UI purchased 50 North American wood turtles, two eastern box turtles, and three Florida box turtles through PayPal and a bank transfer from a reptile dealer in South Carolina. On October 5, 2017, the live turtles were delivered to the UI in Eugene, Oregon.

41. On October 5, 2017, the UI purchased approximately four diamondback terrapins through PayPal from a reptile dealer in Michigan.

42. On September 21, 2017, the UI purchased 38 eastern box turtles through PayPal from a reptile dealer in Kentucky. On October 12, 2017, the live turtles were delivered to the UI in Eugene, Oregon.

43. On November 27, 2018, the UI told me that QIN directed him to deliver all of the live turtles from paragraphs 33 through 36 to an unknown person in a parking lot in Eugene, Oregon. The UI said he dropped the turtles off shortly after October 12, 2017. The UI said QIN paid him for the turtles.

December 2017 shipment to Inglewood, California

44. On December 7, 2017, the UI paid Reptiles Express to ship approximately 20 live turtles (unknown species) to a person ("INDIVIDUAL #4) in Inglewood, California from Eugene, Oregon. On November 27, 2018, the UI told me QIN provided him with the Inglewood address. The UI said QIN paid him for the turtles.

2018 shipments from California and Florida

45. On December 8, 2017, the UI purchased seven spotted turtles through PayPal from a reptile dealer in California. On January 17, 2018, the live turtles were delivered to the UI in Eugene, Oregon. On November 27, 2018, the UI told me QIN paid him for the turtles.

46. From January 30, 2018 and February 5, 2018, the UI purchased 11 North American wood turtles, five yellow-blotched map turtles, and two diamondback terrapins through bank transfers from a reptile dealer in Florida. Based on travel records, the UI left the United States on February 7, 2018. On February 8, 2018, the live turtles were delivered to the UI's residence in Eugene, Oregon. On November 27, 2018, the UI told me QIN paid him for the turtles.

47. From March 12, 2018 through March 13, 2018, the UI asked a friend ("Individual #6) to send bank transfers totaling \$5,900 to the same reptile dealer from Florida. The UI purchased 19 Florida box turtles and four North American wood turtles. Based on travel records, the UI was not in the United States at this time. On March 15, 2018, the live turtles were delivered to the UI's residence in Eugene, Oregon.

48. On March 15, 2018, the UI paid Reptiles Express to ship a package of live turtles from Eugene, Oregon to "Will X." in El Monte, California. The UI specified his roommate was the shipper of the package. On or about March 15, 2018, the UI sent the shipping label to an

email address associated with his roommate. The FedEx package was sent from Eugene, Oregon and delivered to El Monte, California on March 16, 2018. On November 27, 2018, the UI told me QIN provided him with the shipping address in order to ship the turtles mentioned in paragraphs 39 and 40.

April 2018 shipment from Florida

49. From on or about March 26, 2018 through on or about March 27, 2018, the UI asked an unknown friend to send bank transfers totaling \$7,750 to the previously mentioned reptile dealer in Florida. On April 3, 2018, the UI sent the same Florida reptile dealer \$2,050 through a bank transfer. The UI purchased ten spotted turtles, eight Florida box turtles, two North American wood turtles, one Blanding's turtle, and seven diamondback terrapins. On April 6, 2018, the live turtles were delivered via FedEx to the UI in Eugene, Oregon. On November 27, 2018, the UI told me that he purchased diamond back terrapins from the Florida reptile dealer on April 3, 2018. The UI said QIN paid him for the diamondback terrapins.

50. On April 17, 2018, the UI paid Reptiles Express to ship an unknown amount of live turtles from Los Angeles, California to himself in Eugene, Oregon. The package was delivered to the UI's residence in Eugene, Oregon on April 18, 2018.

51. On April 19, 2018, the UI sent live turtles via Reptiles Express from Eugene, Oregon to a person ("Individual #5") in La Habra, California. On November 27, 2018, the UI told me QIN provided him with the shipping address in order to ship the diamondback terrapins.

April 2018 shipment from Nevada and May 2018 shipment from Florida

52. On April 16, 2018, the UI sent \$3,000 in a bank transfer to a reptile dealer in Nevada. On November 27, 2018, the UI told me he purchased three Blanding's turtles. The UI

said the turtles were shipped to his residence in Eugene, Oregon. The UI said two of the Blanding's turtles died in his care.

53. From May 4, 2018 through May 9, 2018, the UI sent \$7,600 in bank transfers to the previously mentioned Florida reptile. According to the UI's email records, the UI purchased six diamondback turtles and ten Florida box turtles and they were delivered via FedEx to the UI in Eugene Oregon on May 18, 2018. On November 27, 2018, the UI said QIN purchased the turtles associated with this transaction in May 2018.

54. On May 24, 2018, the UI sent live turtles via Reptiles Express from Eugene, Oregon to "Individual #5" in La Habra, California. On November 27, 2018, the UI told me QIN provided him with the shipping address.


Conclusion

55. Based on the foregoing, I have probable cause to believe, and I do believe, that QIN conspired to smuggle wildlife from the United States in violation of 18 U.S.C. §§ 371 and 554. I therefore request that the Court issue a criminal complaint and arrest warrant for "Edison" Xiao Dong QIN.

56. Prior to being submitted to the Court, this affidavit, the accompanying complaint and arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Pam Paaso, and AUSA Pam Paaso advised me that in her opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

Request for Sealing

57. I further request that the Court issue an order sealing, until further order of the Court, all papers submitted in support of the this affidavit, the requested criminal complaint and arrest warrant. I believe that sealing these documents is necessary because the information is relevant to an ongoing investigation, and any disclosure of the information at this time may cause flight from prosecution, cause destruction of or tampering with evidence, or otherwise seriously jeopardize the investigation. Premature disclosure of the affidavit, criminal complaint and arrest warrant may adversely affect the integrity of the investigation.



Paul Montuori
Special Agent, USFWS

Subscribed and sworn to before me this 21 day of December 2018.



MUSTAFA T. KASUBHAI
United States Magistrate Judge